

Appl. No. 10/027,669

Amendment Dated May 7, 2004

Reply to Office Action of February 27, 2004

REMARKS/ARGUMENTS

Status of the Claims

Claims 14, 15, 20-29 and 32-36 are allowed.

Claims 1-12, 16-18, 30 and 31 stand rejected.

Claims 13 and 19 are objected to.

Claims 1, 13, 16, 19, 30 and 31 are currently amended.

Claims 1-36 are pending.

Objection to the Claims

In the Office Action of February 27, 2004, claims 13 and 19 are objected to as having informalities. In response, those claims have been amended to correct typographical errors, and are believed to now be in condition for allowance, as indicated in the Office Action.

Allowed Claims

Applicants gratefully acknowledge the allowance of claims 14, 15, 20-29 and 32-36.

Rejection of Claims Under 35 U.S.C. § 102(b) and 103(a)

Claim 31 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Chinese Patent 1,163,780 ("CN'780"), and claims 1-12, 16-18 and 30 stand rejected under 35 U.S.C. § 103(a) as being obvious over CN'780 as applied to claim 31, and further in view of the Robinson et al. text (IDS Ref. C8 filed October 22, 2003). Applicants have amended claims 1, 16, 30 and 31 to recite that angiogenesis is promoted without induction of osteogenesis. Such amendment is supported in Example 1, page 17, lines 8-9 (contrasting the PVP carrier results with the results when collagen served as the carrier, in which case the formation of cartilage at the site of injection was observed). From the histology of the test specimens shown in Figs. 1a-e, Fig. 2 and Fig. 3, it would have been clear to one of ordinary skill in the art at the time of Applicants' invention that in the representative studies angiogenesis was induced without inducing osteogenesis. In Applicants' specification at page 7, lines 15-19, it is implicit that angiogenesis without osteogenesis is disclosed. By contrast, CN'780 teaches a composition that is capable of inducing bone formation, and that "delivery of blood that promotes bone growth to the environment" is contributory to such bone formation (page 8, lines 1-21). Also, see the last two lines on page 2 of CN'780, "...and it has a pronounced effect in promoting bone healing and ectopic osteogenesis." As indicated on page 3, the claims of CN'780 are all drawn to a bone growth stimulant or its method of making. At page 11, lines 10, 17-18 and 23-24, and at page 12, lines 9-15, CN'780 shows that it never contemplated or taught angiogenesis without osteogenesis and, in fact, it

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could be argued that CN'780 teaches away therefrom by virtue of its emphasis on "ectopic" bone formation.

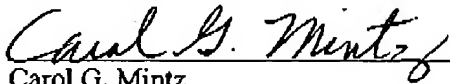
Since a requisite property of the composition or method of independent claim 1, 16 and 30 (*i.e.*, capable of inducing angiogenesis without inducing osteogenesis) is not taught or suggested by CN'780 or the Robinson et al. text, even if the references were combined as suggested in the Office Action, one would still not have the claimed composition of any of claims 1-12 or the method of any of claims 16-18 and 30-31.

Conclusion

Applicants are grateful for the allowance of claims 14, 15, 20-29 and 32-36, and respectfully request reconsideration of the remaining non-allowed claims in light of the foregoing amendments and remarks. In the preceding remarks, Applicants may have at times referred to certain claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other arguments with respect to patentability which have yet to be raised, but which may be raised in the future. This is believed to be a full and complete response to each and every ground of rejection and objection raised in the Office Action. If it is deemed that Applicants have incompletely addressed any item, an opportunity to supplement this Response is respectfully requested.

If a telephone conference would be helpful in advancing the prosecution of this matter, the Examiner is invited to telephone the undersigned representative. Should any fees have been inadvertently omitted, or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Deposit Account Number 03-2769 of Conley Rose, P.C., Houston, Texas, and consider this a petition for any necessary extension of time.

Respectfully submitted,



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